

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 59, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 civil law and procedure.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 34-23-2-1 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE SEPTEMBER 11, 2001
- 8 (RETROACTIVE)]; Sec. 1. (a) As used in this section, "child" means
- 9 an unmarried individual without dependents who is:
- 10 (1) less than twenty (20) years of age; ~~or~~
- 11 (2) less than twenty-three (23) years of age and is enrolled in an
- 12 institution of higher education or in a vocational school or
- 13 program **or is engaged in military service; or**
- 14 **(3) is a military veteran less than twenty-seven (27) years of**
- 15 **age and is enrolled in an institution of higher education**
- 16 **or vocational school following active military service.**
- 17 (b) An action may be maintained under this section against the
- 18 person whose wrongful act or omission caused the injury or death of a
- 19 child. The action may be maintained by:
- 20 (1) the father and mother jointly, or either of them by naming the
- 21 other parent as a codefendant to answer as to his or her interest;
- 22 (2) in case of divorce or dissolution of marriage, the person to
- 23 whom custody of the child was awarded; and
- 24 (3) a guardian, for the injury or death of a protected person.
- 25 (c) In case of death of the person to whom custody of a child was
- 26 awarded, a personal representative shall be appointed to maintain the

1 action for the injury or death of the child.

2 (d) In an action brought by a guardian for an injury to a protected
3 person, the damages inure to the benefit of the protected person.

4 (e) In an action to recover for the death of a child, the plaintiff may
5 recover damages:

6 (1) for the loss of the child's services;

7 (2) for the loss of the child's love and companionship; and

8 (3) to pay the expenses of:

9 (A) health care and hospitalization necessitated by the
10 wrongful act or omission that caused the child's death;

11 (B) the child's funeral and burial;

12 (C) the reasonable expense of psychiatric and psychological
13 counseling incurred by a surviving parent or minor sibling
14 of the child that is required because of the death of the child;

15 (D) uninsured debts of the child, including debts for which
16 a parent is obligated on behalf of the child; and

17 (E) the administration of the child's estate, including
18 reasonable attorney's fees.

19 (f) Damages may be awarded under this section only with respect
20 to the period of time from the death of the child until:

21 (1) the date that the child would have reached:

22 (A) twenty (20) years of age; ~~or~~

23 (B) twenty-three (23) years of age, if the child was enrolled
24 in an institution of higher education or in a vocational
25 school or ~~program~~; ~~or program or is engaged in military~~
26 ~~service~~; ~~or~~

27 **(C) twenty-seven (27) years of age, if the child was a**
28 **military veteran and was enrolled in an institution of**
29 **higher education or vocational school following**
30 **active military service; or**

31 (2) the date of the child's last surviving parent's death;

32 whichever first occurs.

33 (g) Damages may be awarded under subsection (e)(2) only with
34 respect to the period of time from the death of the child until the date
35 of the child's last surviving parent's death.

36 (h) Damages awarded under subsection (e)(1), (e)(2), (e)(3)(C),
37 and (e)(3)(D) inure to the benefit of:

38 (1) the father and mother jointly if both parents had custody of
39 the child;

40 (2) the custodial parent, or custodial grandparent, and the
41 noncustodial parent of the deceased child as apportioned by the
42 court according to their respective losses; or

43 (3) a custodial grandparent of the child if the child was not
44 survived by a parent entitled to benefit under this section.

45 However, a parent or grandparent who abandoned a deceased child
46 while the child was alive is not entitled to any recovery under this
47 chapter.

48 SECTION 2. [EFFECTIVE UPON PASSAGE]: **IC 34-23-2-1, as**
49 **amended by this act, applies to causes of action accruing after**
50 **September 10, 2001.**

1 **SECTION 3. An emergency is declared for this act.**
 (Reference is to SB 59 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.

GARTON Chairperson